

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE ANGEL LEPE,
Plaintiff,

v.

JOHN MERCHANT,
Defendant.

Case No. 22-cv-08920-KAW

ORDER TO SHOW CAUSE

Petitioner, a California prisoner, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his state criminal conviction. It does not appear from the face of the petition that it is without merit. Good cause appearing, the Court hereby issues the following orders:

1. The clerk must serve a copy of this order and the petition upon the respondent and the respondent's attorney, the Attorney General of the State of California, and include a copy of the "consent or declination to magistrate judge jurisdiction form."

2. No later than sixty days from the date of this Order, Respondent shall file with this Court and serve upon Petitioner an Answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the Answer all portions of the state record that have been transcribed previously and are relevant to a determination of the issues presented by the petition. If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with the Court and serving it on Respondent within thirty days of his receipt of the Answer. If he does not do so, the petition will be deemed submitted and ready for decision on the date the Traverse is due.

3. No later than sixty days from the date of this Order, Respondent may file with this


1 Court and serve upon Petitioner a motion to dismiss on procedural grounds in lieu of an Answer,
2 as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254
3 Cases. If Respondent files such a motion, Petitioner shall file with the Court and serve on
4 Respondent an opposition or statement of non-opposition to the motion within thirty days of
5 receipt of the motion, and Respondent shall file with the Court and serve on Petitioner a reply
6 within fourteen days of receipt of an opposition.

7 4. Extensions of time are not favored, though reasonable extensions will be granted.
8 Any motion for an extension of time must be filed no later than **three days** prior to the deadline
9 sought to be extended.

10 5. Petitioner and Respondent shall file their Consent or Declination to Magistrate
11 Judge Jurisdiction on or before the date the answer is due. This form can be found at
12 www.cand.uscourts.gov/civilforms.

13 IT IS SO ORDERED.

14 Dated: January 9, 2023

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16 KANDIS A. WESTMORE
17 United States Magistrate Judge
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